

follow-up 4/15/82  
12/15/81  
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APR 30 1982 *It requested*

DEC 23 1981

Dear Applicant:

Your application for exemption from Federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code has been given consideration.

The evidence presented disclosed that you were incorporated on [redacted]. Your stated purposes are the improvement and betterment of the city of [redacted].

Your organization has hired an engineering company to develop a comprehensive plan for the improvement of sidewalks and landscaping of a [redacted] block area in downtown [redacted]. You state that the purpose of this plan is to stimulate sales and patronage in the downtown area.

Section 501(a) of the Internal Revenue Code of 1954 provides for the exemption of certain organizations described in subsection 501(c).

"(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It reads, in part, as follows:

"In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.—The term 'exempt purpose or purposes', as used in this section, means any purpose or purposes specified in Section 501(c)(3)—."

Section 1.501(c)(3)-1 of the Income Tax Regulations provides, in part, that in order to be exempt as an organization described in Section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. It further provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Revenue Ruling 75-286, describes an organization formed by the residents of a city block to preserve and beautify that block, improve all public facilities within the block, and prevent physical deterioration of the block. The organization pays the city government to plant trees on public property, organize residents to pick up litter and refuse in the public streets and on public sidewalks, and encourage residents to take an active part in beautifying the block by placing shrubbery in public areas within the block. The ruling states, in part, as follows:

"By enhancing the value of the roadway sections abutted by property of its members, the organization is enhancing the value of its members' property rights. The restricted nature of its membership and the limited area in which its improvements are made, indicate that the organization is organized and operated to serve the private interests of its members within the meaning of Section 1.501(c)(3)-1(d)(1)(ii) of the regulations. Accordingly, although the organization is primarily engaged in promoting the general welfare of the community, it is not organized and operated exclusively for charitable purposes."

The ruling concluded that the organization did not qualify under Section 501(c)(3) of the Code but may qualify under Section 501(c)(4).

[REDACTED]

Based upon the information submitted, it appears that your primary purpose is to increase patronage and sales in the business district of [REDACTED].

Therefore, we have concluded that you do not qualify as an organization described in Section 501(c)(3) of the Code.

You are required to file Federal income tax returns annually on Form 1120.

Section 7428(b)(2) of the Internal Revenue Code provides, in part, that:

"A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies.

If you do not agree with these conclusions, you may, within 30 days from the date of this proposed adverse determination letter, appeal to the Regional Office through this Key District Office. Your appeal should contain the information described under Regional Office Appeal in the enclosed Publication 892, and should be mailed to this office. The Regional Office will let you know what action they take, and will set a date and place for any conference to be held. If a written protest is not received within the above time period, this determination letter will be final.

This is a determination letter.

Sincerely yours,

Signed [REDACTED]

[REDACTED]  
District Director

Enclosure